

Carlos Curtis

Name

61776-053

Prison Identification/Booking No.

MCFP-Springfield

ADDRESS or PLACE OF CONFINEMENT

Note: If represented by an attorney; his name, address
& telephone number.

Note: It is your responsibility to notify the Clerk of
Court in writing of any change of address.

18-3248-CV-S-BCW-P

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI

Carlos Curtis

FULL NAME (Include name under which you were convicted)

Petitioner,

CASE No. _____

To be supplied by the Clerk of the United States District Court

CASE No. 03-CR-533-BAH

Criminal case under which sentence was imposed.

v.

Michael Smith

NAME OF WARDEN, (or other authorized person having
custody of petitioner)

Respondent.

PETITION FOR WRIT OF HABEAS CORPUS
BY A PERSON IN FEDERAL CUSTODY
(28 U.S.C § 2241)

INSTRUCTIONS -READ CAREFULLY

This petition shall be legibly handwritten or typewritten, signed by
the petitioner, under penalty of perjury. You must set forth
CONCISELY the answer to each question in the proper space on
the form. Any false statement of a material fact may serve as the
basis for prosecution and conviction for perjury.

You must not attach separate pages to this petition except that ONE
separate additional page is permitted in answering Question No.9.

Upon receipt of a fee of \$5.00 your petition will be filed if it is in proper order.

If you are seeking leave to proceed *in forma pauperis* (without paying the \$5.00 filing fee and other court costs), then you must also execute the declaration on the last page, setting forth information which establishes your inability to pay the fees and costs of the proceedings or to give security therefor. If you wish to proceed in forma pauperis, you must have an authorized officer at the penal institution complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.

When the petition is completed, the original and 3 copies, must be mailed to the Clerk of the United States District Court for the Western District of Missouri, Charles Evans Whittaker United States Courthouse, 400 E. 9th Street, Kansas City, Missouri 64106, ATTENTION: Prisoner Pro Se Office.

Only one sentence, conviction or parole matter may be challenged in a single petition. If you challenge more than one, you must do so by separate petitions.

Petitions which do not conform to these instructions will be returned with a notation as to the deficiency.

PLEASE COMPLETE THE FOLLOWING: (check appropriate number)

This petition concerns:

1. ~~_____~~ a conviction.
2. ~~_____~~ a sentence.
3. _____ jail or prison conditions.
4. _____ prison discipline.
5. _____ a parole problem.
6. _____ other.

PETITION

1. Place of detention MCFP-Springfield P.O. Box 4000 Springfield, Mo 65801
2. Name and location of court which imposed sentence District D.C., Washington D.C.
3. The indictment number or numbers (if known) upon which, and the offense or offenses for which, sentence was imposed:
- (a) Not Known
- (b) _____
- (c) _____
4. The date upon which sentence was imposed and the terms of the sentence:
- (a) 2006 - Life
- (b) _____
- (c) _____
5. Check whether a finding of guilty was made:
- (a) After a plea of guilty _____
- (b) After a plea of not guilty ☒ _____
- (c) After a plea of nolo contendere _____
6. If you were found guilty after a plea of not guilty, check whether that finding was made by :
- (a) a jury ☒ _____
- (b) a judge without a jury _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
- ☒ YES () NO
8. If you did appeal, give the following information for each appeal:
- a. (1) Name of court D.C. Circuit
- (2) Result Denied / Affirmed
- (3) Date of result _____
- (4) Citation or number of opinion _____
- (5) Grounds raised (list each)

- (a) _____
- (b) _____
- (c) _____
- (d) _____

- b. (1) Name of court _____
- (2) Result _____
- (3) Date of result _____
- (4) Citation or number of opinion _____
- (5) Grounds raised (list each)
- (a) Unknown at this time
 - (b) _____
 - (c) _____
 - (d) _____

CAUTION: If you are attacking a sentence imposed under a federal judgment, you must first file a direct appeal or motion under 28 U.S.C. § 2255 in the federal court which entered the judgment.

9. State CONCISELY every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary, attach a SINGLE page only behind this page.

CAUTION: If you fail to set forth all grounds in this petition, you may be barred from presenting additional ground at a later date.

- a. Ground one Actual Innocence, Denial of Due Process of Law, Brady Violations, Prosecutorial Misconduct

Supporting FACTS (tell your story BRIEFLY without citing cases or law).

CAUTION: You must state facts not conclusions in support of your grounds. A rule of thumb to follow is - who did exactly what to violate your rights at what time and place.

The Petitioner in this action does claim actual innocence as the Prosecutor knowingly and willfully suppressed exculpatory evidence to which proves: (1) That the Petitioner was NOT present at the incident itself; (2) that the Prosecutor and Police knew the Petitioner was not present; (3) That the Police and Co-Defendants/Witnesses were "coached" to lie about his presence at the location of the incident and being inside the ^{car} ~~case~~; (4) That in NO report by Law Enforcement, or Witness Statements does the Petitioner's name appear until

Trial dates, The Evidence Suppressed by the Prosecutor Proves the Actual Innocence, See Memorandum of Law and "Exhibit B")

- b. Ground Two Actual Innocence - Illegal Sentence/Illegal Enhancing Factors, improper determination of Crimes of Violence.

Supporting FACTS (Tell your story BRIEFLY without citing cases or law).

Neither the Hobbs Act (18 U.S.C. § 1951) nor 18 U.S.C. § 1591 are "crimes of violence" under the Law (See Memorandum of Law, pages 7-8, Para 13). Therefore the Enhancing Factors utilized, that must be triggered by an offense of violence, is improperly applied, and the Petitioner is Actually Innocent of such factors (e.g. 18 U.S.C. § 924(c), etc.)

- c. Ground Three Melicious Prosecution, Actual Innocence

Supporting FACTS (Tell your story BRIEFLY without citing cases or law).

The Prosecutor did engage in improper means calculated to produce a wrongful conviction and did so knowingly and for improper motivations. The Police, Government Prosecutor and Others did KNOW the Petitioner was NOT present at the time of the offense, at the location of the offense, and it was further known he was NOT implicated by any actual evidence. The witnesses were coerced to lie, present false testimony, and did so, as proven by the evidence. Yet the prosecutor did press forward knowingly to convict a person known to be innocent. See Memorandum of Law, and Exhibit B.

- d. Ground Four

Supporting FACTS (Tell your story BRIEFLY without citing cases or law).

10. Have you filed previous petitions for habeas corpus, motions under Section 2255 of Title 28, United States Code, or any other applications, petitions or motions with respect to this conviction?

(X) Yes () No

11. If your answer to Question No. 10 was yes, give the following information:

- a. (1) Name of Court District D.C.
(2) Nature of proceeding 2255(s) plwol
(3) Grounds raised Not known at this time due to loss of documents
-ON RECORD OF COURT-
(4) Result Denied
(5) Date of result _____
(6) Citation or number of any written opinions or orders entered pursuant to each disposition.

- b. (1) Name of Court _____
(2) Nature of proceeding _____
(3) Grounds raised _____
(4) Result _____
(5) Date of result _____
(6) Citation or number of any written opinions or orders entered pursuant to each disposition.

12. If you did not file a motion under Section 2255 of Title 27\8, United States Code, or if you filed such a motion and it was denied, state why your remedy by way of such motion is inadequate or ineffective to test the legality of your detention:

The Petition is claiming Actual Innocence, which is properly filed in § 2241 as it meets the "inadequate or ineffective" clause, it is NOT a collateral attack.

13. Are you presently represented by counsel? () Yes (X) No

If so, name, address and telephone number _____

Case name and court _____

14. If you are seeking leave to proceed in forma pauperis, have you completed the declaration setting forth the required information?

(X) Yes () No

WHEREFORE, petitioner prays that the court grant petitioner relief to which he may be entitled in this proceeding,

Signature of Attorney (if any)

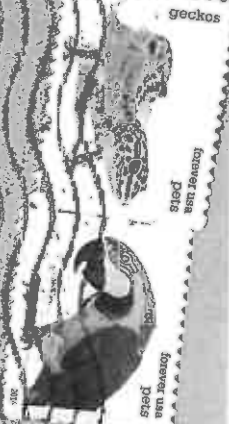
I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Executed on 7-27-18
(Date)

Carlos Curtis
Signature of Petitioner

POSTNET barcode

REC'D AUG 2 2018



Springfield P8DC MO 658
AUG 01 AUG 2018 PM

Carlos Curtis #61776-053
Medical Center for Federal Prisoners
P.O. Box 4000
Springfield, Missouri 65801-4000

-Legal
Mail-

CLERK of Court
U.S. Dist. Ct., Western Dist. of Mo.
1400 U.S. Courthouse
222 John Q. Hammons Pkwy.
Springfield, Mo. 65806